



Multilateral non-binding initiatives on space security

Workshop: The ITU - challenges in the 21st century: Preventing harmful interference to satellite systems, Geneva, 10 June 2013

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Content

- Present 2 instruments and explain their relevance with regard to the topic of harmful interference with satellite systems:
 - Draft Code of Conduct on Outer Space Activities, initiated by the EU (CoC)
 - UNCOPUOS STSC Working Group on the Long-term Sustainability of Outer Space Activities (LTSSA)
 - (the 3rd, GGA on TCBM, addressed by its chair)
- In the context of the UN Treaties on the peaceful uses of outer space

Harmful interference

- Interference is on the rise
 - Non-intentional (technical)
 - Intentional (political)
- Not easy to determine interference objectively
 - Only a few states have capability
- Distinction/qualification of intent is difficult
 - And not mentioned in art. 45 ITU Constitution
- Important economic consequences
 - Operators cannot use transponders

What can ITU do?

- ITU has tools, procedures, mostly effective in case of non-intentional interference
 - Depend on goodwill of sovereign states
- Needs more tools to face growing problem
 - Most importantly: objective awareness by means of independent monitoring
- Should/can ITU also solve political disputes?
 - ITU as IGO has no competence to verify/sanction actions by sovereign states

ITU regime is not self-contained

- International law is not fragmented
- Important to consider other legal regimes, e.g.
 - Space law
 - Human rights
 - The right to seek, receive and impart information
 - But also protection against cultural indoctrination
 - Possibly 'jamming' can/should be solved under these regimes
 - If all else fails, arbitration may be needed, e.g. PCA Rules for space disputes (2011)

Space law context: UN Treaties

- Mainly Articles I, III, IX Outer Space Treaty
- Exploration and use of outer space are free
- Activities are governed by int. law & UN Charter
 - Including the right to self-defense
- International cooperation
- Due regard to the corresponding interests of other states
- If potentially harmful interference is to be expected, states must undertake appropriate international consultations
 - But bilateral, and focused on actor, not on affected state

Three pillars

- 3 pillars to increase Safety, Security, Sustainability of space activities (CoC, LTSSA, GGE)
 - Address actual threats to safety, security, sustainability
 - Non-binding, but can lead to treaties, become custom
 - Considerable overlap in participants, all comprise lawyers
 - Concurrent in timeframe
 - CoC: Top-down / LTSSA: Bottom-up

The Code of Conduct

- First version 2008, rev. 2010, presented to larger group in Vienna, June 2012
- Political document, top-down
- Last meeting (May 2013) in Kiev: 60 countries
- Not intended for negotiation in COPUOS or CD
- Rather: diplomatic ad hoc conference to adopt it
- Next steps:
 - Consult, build support, revise, finalize, convene, adopt, open for subscribers, implement
- More time may be needed

The Code of Conduct

- All encompassing scope, dynamic instrument
 - Military & civil
 - Can be revised / updated as needed
- Preamble:
 - Desire to set best practices to safeguard (1) freedom of access, (2) security/integrity of space objects, (3) legitimate defense interests of states
- 4 sections:
 - Purpose, scope & core principles
 - General measures
 - Cooperation mechanisms
 - Organizational aspects

Purpose, scope & core principles

- Purpose/scope:
 - Security, safety, sustainability
- Principles:
 - Freedom to use, self defense, peaceful uses
 - “the responsibility of states to take all appropriate measures and cooperate in good faith to prevent harmful interference”
- Compliance with/promotion of treaties etc.
 - Incl. ITU Constitution, Convention, RR

General measures

- Measures on space operations, relevant parts:
 - Establish & implement policies / procedures to minimize possibility of any form of harmful interference with other States' right to peaceful exploration & use of outer space
 - Abide by and implement all ITU recommendations and regulations on allocation of radio spectra and orbital assignments
- Measures on space debris

Cooperation mechanisms/Organizational aspects

- Notification
- Registration
- Information
- Consultation
 - No prejudice to ITU consultation procedures
- Biennial meeting
- Central point of contact
- Database
- Participation RIO, IGO

LTSSA

- Formal WG of UNCOPUOS set up in 2009, started work in 2010
- Terms of reference approved in Feb. 2011
- 4 Expert Groups started work in Feb. 2012
 - EG A: sustainable space utilization supporting sustainable development on earth
 - EG B: space debris, space operations and tools to support collaborative SSA
 - EG C: space weather
 - EG D: regulatory regimes and guidance for actors in the space arena

LTSSA

- More technical than political, bottom-up, like debris mitigation guidelines
- Expected output:
 - Consolidated set of best practices to be applied voluntarily by States, IGOs, NGOs, & private sector
- Interaction with satellite operators (not members of COPUOS) and with IADC, ITU, IAASS etc. is essential
 - E.g. through workshops
- Draft guidelines were published in March 2013
- Aim to submit to COPUOS in June 2014
- Could be recommended for endorsement by UNGA

LTSSA draft guidelines: EG D

- Guideline D5: Encourage / promote activities of non-governmental entities that will enhance LTSSA
 - These can help increase awareness about compliance with ITU RR related to space services, and development of open, transparent standards for exchange of data necessary to avoid radio frequency interference etc.
- Recommended for future consideration:
 - Definitions, e.g. of ‘space activity’, because earth-based activities, such as radio frequency interference, has significant potential to affect the sustainability of space-based activities. Therefore regulation of “space activities” will need to encompass both Earth-based and outer-space-based activities if it is to be effective in ensuring the sustainability of outer space activities

Conclusion

- 3 initiatives developed in parallel may seem duplicative, but are complementary
- The challenge will be to progress in a consistent manner
 - New agenda item proposed for COPUOS LSC: exchange of information on non-legally binding instruments for space activities
- Need to ensure widest possible participation / support
 - Including developing countries
- If successful, these instruments can support existing legal instruments and mechanisms to maintain the use of outer space safe, secure and sustainable

Thank you

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